

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

KEYSTON JAMORY WEST,

Petitioner,

v.

**CRIMINAL ACTION NO.: 3:00-CR-46-2
CIVIL ACTION NO.: 3:17-CV-106
(GROH)**

UNITED STATES OF AMERICA,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R [ECF No. 389 in 3:00-CR-46] on August 10, 2018. In his R&R, Magistrate Judge Trumble recommends that the Petitioner’s Motion [ECF No. 362 in 3:00-CR-46, ECF No. 1 in 3:17-CV-106] be denied and dismissed.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court must conduct a *de novo* review of the magistrate judge’s findings where objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Petitioner’s right to appeal this Court’s Order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).


Objections to Magistrate Judge Trumble's R&R were due within fourteen plus three days of service. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Service was accepted by the *pro se* Petitioner on August 13, 2018. ECF No. 390 in 3:00-CR-46. To date, no objections have been filed. Accordingly, this Court will review the R&R for clear error.

Upon careful review of the R&R, it is the opinion of this Court that Magistrate Judge Trumble's Report and Recommendation [ECF No. 389 in 3:00-CR-46] should be, and is hereby, **ORDERED ADOPTED** for the reasons more fully stated therein. The Petitioner has not obtained authorization from the Fourth Circuit Court of Appeals to file his successive § 2255 motion in this Court. Therefore, this Court is without jurisdiction to consider the Petitioner's claims and the Petitioner's Motion to Vacate [ECF No. 362 in 3:00-CR-46, ECF No. 1 in 3:17-CV-106] is **DENIED** and **DISMISSED WITHOUT PREJUDICE**. The Petitioner's Motion to Order the Government to Respond [ECF No. 381 in 3:00-CR-46] is **DENIED**.

As a final matter, upon an independent review of the record, this Court hereby **DENIES** Petitioner a Certificate of Appealability, finding that he has failed to make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

This matter is **ORDERED STRICKEN** from the Court's active docket. The Clerk of Court is **DIRECTED** to mail a copy of this Order to the Petitioner by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: September 6, 2018


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE